

Appl. No. : 10/810,421
Filed : March 25, 2004

REMARKS

In the final Office Action mailed on June 26, 2006, the Examiner rejected all pending claims, Claims 1-13, 15-16, 18-25 and 43. Applicant respectfully requests full consideration of the remarks contained herein.

Rejections Under 35 U.S.C. § 102

The Examiner rejected Claims 1-13 under 35 U.S.C. § 103(a) as being unpatentable over Hardee (U.S. Patent No. 4,986,307) in view of Van Bragt (U.S. Patent No. 3,364,947); Claims 15 and 43 were rejected as being unpatentable over Hardee in view of Van Bragt and further in view of Tidwell (U.S. Patent Application Publication No. 2002/0136613); Claims 16, 18-19 and 24-25 were rejected as being unpatentable over Hardee in view of Huska (U.S. Patent No. 2,996,083); and Claims 20-23 were rejected as being unpatentable over Hardee in view of Huska and further in view of Van Bragt.

In all of the rejections, Hardee is asserted to teach the general features of independent Claims 1 and 16, except for the recited “flow patterns.” Van Bragt is asserted to teach the flow pattern of Claim 1 and Huska is asserted to teach the flow pattern of Claim 16. As a suggestion to combine Hardee with each of Huska and Van Bragt, the Examiner has stated that it would have been obvious to modify Huska to have the same flow patterns as Van Bragt and Huska. The Examiner has also asserted that the other limitations of the claims are obvious and/or are supplied by the various asserted secondary references.

Applicant respectfully traverses the rejections and submits that the pending claims are patentably distinct.

Initially, Applicant notes that the Examiner has not provided *any* teaching or suggestion to modify the valve of Hardee to have the flow pattern of Van Bragt or Huska. Rather, the Examiner has only made the bare conclusory statement that such combinations “would have been obvious.” As a result, Applicant respectfully submits that the Examiner has not established a *prima facie* case of obviousness, as the requisite suggestion to modify has not been established. *See, e.g.,* M.P.E.P. § 2143 (stating that, to establish a *prima facie* case of obviousness, “there must be some suggestion or motivation ... to modify the reference or to combine reference teaching.”).

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Moreover, Applicant submits that the requisite motivation to modify Hardee is simply not present in the art of record. It is well-established that if a “proposed modification would render the prior art invention being modified unsatisfactory for its intended purpose, then there is no suggestion or motivation to make the proposed modification.” M.P.E.P. § 2143.01. In the present case, Applicant submits that the Examiner’s asserted modification of Hardee would render Hardee unsatisfactory for its intended purpose.

Hardee teaches a flow pattern in which, when flow through the valve is allowed, *two non-overlapping* flow paths, or conduits, are simultaneously present. This is important to the valve of Hardee, as each pair of conduits is intended to provide gas for a “pneumatic accessory,” with one of the conduits allowing gas flow to the pneumatic accessory, while the other conduit accepts gas exhausted from the accessory. Hardee, Col. 2, lines 30-68 and Figures 1 and 2 (showing conduits 7 and 8, which together form a gas flow loop).

In contrast, Van Bragt does not teach a flow pattern in which flow paths through the valve are always formed in pairs. For example, Figure 3 of Van Bragt shows a flow pattern in which flow occurs only between the inlet 20 and the outlet 19; there is no path for gas to flow through any of the other inlets or outlets, as Hardee would require for, *e.g.*, gas returning from a pneumatic device.

Similarly, rather than maintaining distinct pairs of flow paths through the valve, Huska teaches that its valve is a “rotary selector valve and is particularly useful for the purpose of *commingling* a plurality of streams of fluid.” Huska, Col. 2, lines 33-35. (emphasis added). Applicant notes that, as applied to Hardee, this flow pattern would result in the contamination of gas supply streams flowing to a pneumatic device with gas return streams from the device.

Clearly, the flow patterns of Van Bragt and Huska are designed for different purposes than the flow pattern that the valve of Hardee is configured to produce. Consequently, Applicant submits that modifying Hardee to have the flow pattern of Van Bragt or Huska would render Hardee unsatisfactory for its intended purpose of connection to pneumatic devices and allowing simultaneous, distinct gas flows to and from the devices.

As a result, Applicant respectfully submits that the art of record, including Hardee and Van Bragt or Huska, does not establish a *prima facie* case of obviousness. As a result, Applicant

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respectfully submits that independent Claims 1 and 16, and their dependents, are not obvious over the art of record.

Accordingly, Applicant submits that the pending claims are allowable over the art of record. Applicant has not addressed each and every of the Examiner's assertions, nor has Applicant addressed the further rejections of dependent claims as being moot in view of the remarks herein. However, Applicant expressly does not acquiesce in the Examiner's findings not addressed herein. For example, Applicant submits that the dependent claims recite further novel and non-obvious features of particular utility.

CONCLUSIONS

In view of the foregoing amendments and remarks, Applicant requests entry of the amendments and submits that the application is in condition for allowance and respectfully request the same. If some issue remains which the Examiner feels may be addressed by Examiner's amendment, the Examiner is cordially invited to call the undersigned for authorization.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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